

FREEDOM COURT REPORTING

Page 1

1 UNITED STATES DISTRICT COURT

2 SOUTHERN DISTRICT OF OHIO

3 WESTERN DIVISION

4 \* \* \*

5 VIVIAN BERT,

6 et al.,

7 Plaintiffs,

8 vs.

CASE NO. C-1-02-467

9 AK STEEL CORPORATION,

10 Defendant.

11 \* \* \*

12 Deposition of RICHARD NUNLIST, Witness

13 herein, called by the Plaintiffs for

14 cross-examination pursuant to the Rules of Civil

15 Procedure, taken before me, Karen M. Rudd, a

16 Notary Public in and for the State of Ohio, at the

17 West Chester Conference Center, 9248 Princeton

18 Glendale Road, Hamilton, Ohio, 45011, on Friday,

19 August 17, 2007, at 12:31 p.m.

20 \* \* \*

## FREEDOM COURT REPORTING

Page 2 PAGE	Page 4
<p>1 EXAMINATIONS CONDUCTED</p> <p>2 BY MS. DONAHUE:..... 5</p> <p>3 BY MR. ROGERS:..... 91</p> <p>4</p> <p>5 EXHIBITS MARKED</p> <p>6 (Thereupon, Plaintiffs' Exhibit 1 8</p> <p>7 was marked for purposes of</p> <p>8 identification.).....</p> <p>9 (Thereupon, Plaintiffs' Exhibit 2 8</p> <p>10 was marked for purposes of</p> <p>11 identification.).....</p> <p>12 (Thereupon, Plaintiffs' Exhibit 3 30</p> <p>13 was marked for purposes of</p> <p>14 identification.).....</p> <p>15 (Thereupon, Plaintiffs' Exhibit 4 38</p> <p>16 was marked for purposes of</p> <p>17 identification.).....</p> <p>18 (Thereupon, Plaintiffs' Exhibit 5 47</p> <p>19 was marked for purposes of</p> <p>20 identification.).....</p> <p>21 (Thereupon, Plaintiffs' Exhibit 6 51</p> <p>22 was marked for purposes of</p> <p>23 identification.).....</p>	<p>1 APPEARANCES:</p> <p>2 On behalf of the Plaintiffs:</p> <p>3 Wiggins, Childs, Quinn &amp; Pantazis</p> <p>4 By: Susan Donahue</p> <p>5 Attorney at Law</p> <p>6 The Kress Building</p> <p>7 301 Nineteenth Street North</p> <p>8 Birmingham, Alabama 35203</p> <p>9 On behalf of the Defendant and witness:</p> <p>10 Taft, Stettinius &amp; Hollister, LLP</p> <p>11 By: Gregory Parker Rogers</p> <p>12 Attorney at Law</p> <p>13 425 Walnut Street</p> <p>14 Suite 1800</p> <p>15 Cincinnati, Ohio 45202</p> <p>16 On behalf of the Defendant:</p> <p>17 AK Steel Corporation</p> <p>18 By: Stephanie Bisselberg</p> <p>19 Attorney at Law</p> <p>20 703 Curtis Street</p> <p>21 Middletown, Ohio 45043</p> <p>22</p> <p>23 * * *</p>
Page 3	Page 5
<p>1</p> <p>2</p> <p>3 (Thereupon, Plaintiffs' Exhibit 7 55</p> <p>4 was marked for purposes of</p> <p>5 identification.).....</p> <p>6 (Thereupon, Plaintiffs' Exhibit 8 58</p> <p>7 was marked for purposes of</p> <p>8 identification.).....</p> <p>9 (Thereupon, Plaintiffs' Exhibit 9 84</p> <p>10 was marked for purposes of</p> <p>11 identification.).....</p> <p>12 (Thereupon, Plaintiffs' Exhibit 10 88</p> <p>13 was marked for purposes of</p> <p>14 identification.).....</p> <p>15 (Thereupon, Plaintiffs' Exhibit 11 89</p> <p>16 was marked for purposes of</p> <p>17 identification.).....</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>	<p>1 RICHARD NUNLIST</p> <p>2 of lawful age, Witness herein, having been first</p> <p>3 duly cautioned and sworn, as hereinafter</p> <p>4 certified, was examined and said as follows:</p> <p>5 CROSS-EXAMINATION</p> <p>6 BY MS. DONAHUE:</p> <p>7 Q. Mr. Nunlist, my name is Susan</p> <p>8 Donahue, and I'm a lawyer representing the</p> <p>9 plaintiffs in the lawsuit Vivian Bert and</p> <p>10 others versus AK Steel. And you are here to</p> <p>11 give your testimony today?</p> <p>12 A. Okay.</p> <p>13 Q. Have you ever given a deposition</p> <p>14 before?</p> <p>15 A. No.</p> <p>16 Q. Let me just go over some of the</p> <p>17 ground rules so that, you know, we can have</p> <p>18 this go smoothly. Do you understand that your</p> <p>19 testimony is under oath and under penalty of</p> <p>20 perjury?</p> <p>21 A. Yes.</p> <p>22 Q. Do you understand that it's the</p> <p>23 same as if you were in a court in front of a</p>

## FREEDOM COURT REPORTING

<p style="text-align: right;">Page 6</p> <p>1 judge?</p> <p>2 A. If you say so, yes.</p> <p>3 Q. You don't?</p> <p>4 A. I have never done it before, so --</p> <p>5 Q. All right. Yes, it is the same.</p> <p>6 A. Okay. If you are telling me,</p> <p>7 okay.</p> <p>8 Q. The difference is that we don't</p> <p>9 have a judge here to rule on objections that</p> <p>10 might be made. Let me ask you this question,</p> <p>11 are you represented by an attorney today?</p> <p>12 A. Yes.</p> <p>13 Q. Who is your attorney?</p> <p>14 A. Greg.</p> <p>15 Q. And you are indicating Greg</p> <p>16 Rogers?</p> <p>17 A. Yes.</p> <p>18 MS. DONAHUE: Also in attendance is?</p> <p>19 MS. BISSELBERG: Stephanie</p> <p>20 Bisselberg.</p> <p>21 MS. DONAHUE: Thank you, Stephanie.</p> <p>22 I'm sorry. Who is of counsel for AK Steel?</p> <p>23 MS. BISSELBERG: Correct, in-house</p>	<p style="text-align: right;">Page 8</p> <p>1 A. Yes.</p> <p>2 Q. Okay. You can take a break</p> <p>3 whenever you would like, unless there's a</p> <p>4 question on the table that needs to be answered</p> <p>5 first. Is that all right?</p> <p>6 A. Yes.</p> <p>7 MS. DONAHUE: Let's mark this as</p> <p>8 Exhibit 1.</p> <p>9 (Thereupon, Plaintiffs' Exhibit 1 was</p> <p>10 marked for purposes of identification.)</p> <p>11 Q. Do you recognize this document?</p> <p>12 A. Yes.</p> <p>13 Q. What is this?</p> <p>14 A. The subpoena for me to be here</p> <p>15 today.</p> <p>16 Q. Okay.</p> <p>17 A. Do I keep these documents?</p> <p>18 MS. DONAHUE: No, they are for her,</p> <p>19 but you can stack them up in front of you, and we</p> <p>20 will -- may I look at the documents from the other</p> <p>21 deposition? We will just remark them. Let's mark</p> <p>22 this as Exhibit 2 in this deposition.</p> <p>23 (Thereupon, Plaintiffs' Exhibit 2 was</p>
<p style="text-align: right;">Page 7</p> <p>1 counsel.</p> <p>2 Q. The difference between here and in</p> <p>3 a court is we don't have a judge to rule on</p> <p>4 objections that your attorney might make, and</p> <p>5 so the objections are simply recorded in the</p> <p>6 transcript.</p> <p>7 A. Okay.</p> <p>8 Q. Do you understand that you have</p> <p>9 been subpoenaed to testify because you have</p> <p>10 been named as a witness in this lawsuit?</p> <p>11 A. Yes.</p> <p>12 Q. To help the court reporter take a</p> <p>13 clear record, I would just ask you to answer</p> <p>14 audibly with yeses and nos rather than nodding</p> <p>15 your head or saying uh-huh or uh-uh. Is that</p> <p>16 fair?</p> <p>17 A. I will do my best.</p> <p>18 Q. Thank you. Also it will help her</p> <p>19 make a record if you will wait to answer your</p> <p>20 question -- wait to give your answer until I am</p> <p>21 finished with my question, and, likewise, I</p> <p>22 will wait to ask my next question until you</p> <p>23 have completed your answer. Is that fair?</p>	<p style="text-align: right;">Page 9</p> <p>1 marked for purposes of identification.)</p> <p>2 MS. DONAHUE: It's the subpoena for</p> <p>3 the documents.</p> <p>4 Q. Could you please look at what we</p> <p>5 have marked as Exhibit 2? Have you seen this</p> <p>6 document before?</p> <p>7 A. Yes.</p> <p>8 Q. And what is this document?</p> <p>9 A. The subpoena for documents.</p> <p>10 Q. All right. Did you gather the</p> <p>11 documents that were subpoenaed for this --</p> <p>12 pursuant to this subpoena?</p> <p>13 A. Mary Jane did most of the work. I</p> <p>14 did some.</p> <p>15 Q. All right. What work did you do</p> <p>16 to collect the documents?</p> <p>17 A. The contracts.</p> <p>18 Q. What work did Mary Jane Nunlist</p> <p>19 do?</p> <p>20 A. She did one, three, and four.</p> <p>21 Q. Where did you search for the</p> <p>22 contracts in response to question number two?</p> <p>23 A. The contract file.</p>

## FREEDOM COURT REPORTING

<p style="text-align: right;">Page 10</p> <p>1 Q. Where is that contract file?</p> <p>2 A. In our offices.</p> <p>3 Q. And were you present when Mary</p> <p>4 Jane was gathering the documents pursuant to</p> <p>5 numbers one, three, and four?</p> <p>6 A. I was in the office at the time</p> <p>7 when she was doing that. I'm not sure when she</p> <p>8 all did everything.</p> <p>9 Q. And do you know when she did this?</p> <p>10 A. After we got the subpoena.</p> <p>11 Q. Okay. Do you currently hold a</p> <p>12 position with Palmer Temps?</p> <p>13 A. Yes.</p> <p>14 Q. What is your position?</p> <p>15 A. Vice president.</p> <p>16 Q. What are your duties as vice</p> <p>17 president?</p> <p>18 A. A little of everything, except</p> <p>19 right now we haven't been in the office much.</p> <p>20 I have been in the office very little over the</p> <p>21 last two years, year and a half, since Mary</p> <p>22 Jane got sick.</p> <p>23 Q. Okay.</p>	<p style="text-align: right;">Page 12</p> <p>1 weeks ago, and we are staying at a hotel until</p> <p>2 our house is done, which they are saying</p> <p>3 probably it will be October now.</p> <p>4 Q. Okay. What hotel are you staying</p> <p>5 in?</p> <p>6 A. Staybridge.</p> <p>7 Q. Where is that?</p> <p>8 A. In West Chester.</p> <p>9 Q. Is your intention to return to</p> <p>10 your house after it is constructed?</p> <p>11 A. Yes.</p> <p>12 Q. What is the address of your</p> <p>13 residence?</p> <p>14 A. 16 Sycamore Terrace.</p> <p>15 Q. What town is that in?</p> <p>16 A. Middletown, Ohio.</p> <p>17 Q. And did you say that you expect to</p> <p>18 move back in in October of this year?</p> <p>19 A. That's what we are hopeful at this</p> <p>20 time. We were told December of last year at</p> <p>21 one time.</p> <p>22 Q. Okay. I understand.</p> <p>23 A. With contractors, you are never</p>
<p style="text-align: right;">Page 11</p> <p>1 A. I do primarily the workers' comp,</p> <p>2 the accounting, payables, receivables. I still</p> <p>3 am able to do those.</p> <p>4 Q. So Mary Jane Palmer Nunlist is</p> <p>5 your wife; is that correct?</p> <p>6 A. Yes.</p> <p>7 Q. And she became ill around what</p> <p>8 time?</p> <p>9 A. She first found the tumor in</p> <p>10 August two years ago.</p> <p>11 Q. August of 2005?</p> <p>12 A. Five, yes.</p> <p>13 Q. And since then, neither you nor</p> <p>14 her have been in the office much; is that what</p> <p>15 you are testifying to?</p> <p>16 A. We were the first few months, but</p> <p>17 she is being treated at M.D. Anderson in</p> <p>18 Houston, and we go -- we are there one to four</p> <p>19 weeks. Our house burned down June 5th of 2006,</p> <p>20 so we don't have a home here. So we had a</p> <p>21 condo in Florida. So we have spent some time</p> <p>22 in Florida so we would have a place to stay.</p> <p>23 We came back approximately four</p>	<p style="text-align: right;">Page 13</p> <p>1 sure. That's what we are hoping now.</p> <p>2 Q. Who is taking care of the office</p> <p>3 in your absence and in the absence of your</p> <p>4 wife?</p> <p>5 A. The structure of our office was</p> <p>6 each person really takes care of their area.</p> <p>7 It was structured that way when we were even</p> <p>8 there. They all just pitch in. There's no</p> <p>9 manager. We don't have someone that's a</p> <p>10 manager. They all just take care of their</p> <p>11 areas and do their jobs.</p> <p>12 Q. What areas do you have?</p> <p>13 A. Well, you have the -- you go from</p> <p>14 the front desk, you have the clerical, you have</p> <p>15 the industrial, we have the computer tutor</p> <p>16 division, we also have a division called</p> <p>17 personnel solutions.</p> <p>18 Q. Are those all your areas?</p> <p>19 A. There's actually three divisions,</p> <p>20 Palmer Temps, which would take in those first</p> <p>21 three I gave you. There's the three divisions,</p> <p>22 Palmer Temps, computer tutor, and personnel</p> <p>23 solutions.</p>

## FREEDOM COURT REPORTING

<p style="text-align: right;">Page 14</p> <p>1 Q. I see. Is the person in charge of 2 the industrial area, who is that person? 3 A. Sandy is one of the ones that does 4 it. Both Sandy and Amy does the industrial 5 area. 6 Q. What is Sandy's last name? 7 A. Huddleston. 8 Q. And what is Amy's last name? 9 A. Powers. 10 Q. When you say they take care of the 11 industrial area, what are their duties in that 12 area? 13 A. They would fill orders, interview 14 people. 15 Q. Anything else? 16 A. Well, Amy also does the front 17 desk, so she has the duties of the front desk. 18 She takes care of all the unemployment, 19 greeting people as they come in. Amy does 20 backup in industrial and clerical. She has 21 worked in both of those areas. 22 Q. When you say fill orders, what is 23 involved in that?</p>	<p style="text-align: right;">Page 16</p> <p>1 A. I was assistant treasurer. 2 Q. Has AK Steel been a customer of 3 Palmer Temps? 4 A. Have they been a customer? 5 Q. Yes. 6 A. Yes. 7 Q. To your knowledge, when did they 8 start requesting services of Palmer Temps? 9 A. Before I was there. 10 Q. Do you know when, how long? 11 A. I believe it was in the first year 12 she was in business. 13 Q. Do they continue to be a customer? 14 A. Yes. 15 Q. What have you done for AK Steel in 16 the past? 17 A. We have done their temporary 18 positions. We have done some training. We 19 have done some typing for them. We did some -- 20 helped them with their direct hiring. 21 Q. Is there anything else that you 22 have done for AK Steel? 23 A. There could be over, you know,</p>
<p style="text-align: right;">Page 15</p> <p>1 A. A customer would call an order in 2 and say that they need someone in three days to 3 do a specific job or a general job. 4 Q. When did you begin working at 5 Palmer Temps? 6 A. September, '91. 7 Q. What was your position when you 8 first came to Palmer? 9 A. Vice president. 10 Q. Where did you work before you came 11 to Palmer Temps? 12 A. Scripts Howard. 13 Q. Scripts what? 14 A. Scripts Howard. 15 Q. What is Scripts Howard? 16 A. Channel Nine here is one of their 17 assets. Cincinnati Post is one of theirs. 18 They are newspapers, publications. HDTV is 19 owned by Scripts Howard. Charlie Brown is not 20 theirs, but they -- United Media is the one 21 that distributes Charlie Brown. That was one 22 of their products. 23 Q. What did you do at Scripts Howard?</p>	<p style="text-align: right;">Page 17</p> <p>1 that many years, but those are the main ones 2 that I can think of. 3 Q. In regard to direct hiring, what 4 have you done? 5 A. We did a -- in 2000, we did a 6 project where we assisted them in trying to 7 obtain qualified candidates. 8 Q. Okay. What positions were you 9 trying to fill for AK Steel? 10 A. Those were going to be mill 11 positions. 12 Q. Were these laborer positions? 13 A. My definition of mill is the 14 laborer position, in case there's some 15 interpretation of AK. I mean -- 16 Q. That's fine. So these were 17 positions as entry level positions into the 18 mill to work in production? 19 A. Yes. It was my understanding it 20 was into the production of steel, yes. 21 Q. Okay. Did you -- when did this 22 project begin? 23 A. Sometime in the middle of 2000.</p>

## FREEDOM COURT REPORTING

<p style="text-align: right;">Page 18</p> <p>1 Q. And when did this project end?</p> <p>2 A. They notified us at the end of</p> <p>3 2000 to end the project, and we carried it on.</p> <p>4 We had some applicants scheduled to come in the</p> <p>5 next few days, so it actually carried on into</p> <p>6 the first couple of days of 2001, to January of</p> <p>7 2001, the first part.</p> <p>8 Q. Have you ever done any direct</p> <p>9 hiring services for AK Steel other than this?</p> <p>10 A. It's possible that there's been</p> <p>11 one or two through the clerical side. I'm not</p> <p>12 sure. In the back of my mind, there was some</p> <p>13 special situation where there may have been one</p> <p>14 or two where there was a different scenario. I</p> <p>15 don't know if they maybe bought someone out</p> <p>16 early on the clerical side or what, but,</p> <p>17 primarily, no, but I'm just not positive.</p> <p>18 Q. That's fine. No, I'm interested</p> <p>19 in what you can recall right now today. That's</p> <p>20 fine.</p> <p>21 A. Okay.</p> <p>22 Q. Have you done any direct hiring</p> <p>23 services for AK Steel since this project?</p>	<p style="text-align: right;">Page 20</p> <p>1 what they wanted.</p> <p>2 Q. Explain to me what they actually</p> <p>3 wanted you to do?</p> <p>4 A. Basically, they were having</p> <p>5 problems getting qualified people at that time.</p> <p>6 To the best of my memory, we are talking 2000.</p> <p>7 I think that was during when there was a</p> <p>8 shortage of labor a little bit, and they were</p> <p>9 wanting to see if we could find additional</p> <p>10 candidates for them, qualified candidates.</p> <p>11 Q. Did they -- explain to me exactly</p> <p>12 how the procedure was going to go. Did they</p> <p>13 give you AK Steel applications to hand out in</p> <p>14 your office?</p> <p>15 A. Yes.</p> <p>16 Q. Do you have any copies of those AK</p> <p>17 Steel applications in your office today?</p> <p>18 A. Not that I know of.</p> <p>19 Q. So they gave you their application</p> <p>20 to hand out, and then what happened when</p> <p>21 someone came in and wanted to apply?</p> <p>22 A. The way it was set up is that they</p> <p>23 would send us a resume, and we would receive</p>
<p style="text-align: right;">Page 19</p> <p>1 A. No.</p> <p>2 Q. Is there any contract that details</p> <p>3 the services you are going to provide for AK</p> <p>4 Steel in regard to this project?</p> <p>5 A. No.</p> <p>6 Q. How did you make the arrangement</p> <p>7 to do this?</p> <p>8 A. We met with them.</p> <p>9 Q. Who did you meet with?</p> <p>10 A. I believe Phyllis Short would have</p> <p>11 been one of them, and there may have been</p> <p>12 someone else. I'm not sure at this point. You</p> <p>13 are talking seven years ago.</p> <p>14 Q. Uh-huh. Do you recall meeting</p> <p>15 with them yourself?</p> <p>16 A. I remember at times discussing</p> <p>17 issues with them at the time when we are</p> <p>18 talking about. Yeah, I guess I was in a</p> <p>19 meeting with them. I really can't say I</p> <p>20 remember sitting in a room with them.</p> <p>21 Q. Okay. But you remember having</p> <p>22 discussions with them?</p> <p>23 A. I remember talking to them about</p>	<p style="text-align: right;">Page 21</p> <p>1 the resumes. A resume was required. We would</p> <p>2 go through a process with the resume, call the</p> <p>3 individual, and there were some -- there were</p> <p>4 some requirements, I think. We have done more</p> <p>5 than one of these for other companies, so it's</p> <p>6 hard to remember which is what requirements.</p> <p>7 I believe AK had a requirement of</p> <p>8 a high school education. I don't know if a GED</p> <p>9 was acceptable or not. We would verify certain</p> <p>10 facts and set them up for an interview. They</p> <p>11 would come in, and we had approximately -- I'm</p> <p>12 not sure how many questions there were, maybe</p> <p>13 an additional five or seven questions we were</p> <p>14 to ask them. We would ask them those</p> <p>15 questions. Based upon those answers, they</p> <p>16 would receive an application or not. And then</p> <p>17 we would send all files to AK indicating which</p> <p>18 ones had an application and which ones didn't,</p> <p>19 and they took it from there.</p> <p>20 Q. Okay. When you said that it</p> <p>21 started with a resume, would individuals then</p> <p>22 submit a resume to you, or did you get the</p> <p>23 resumes from AK Steel?</p>



## FREEDOM COURT REPORTING

Page 22

1 A. We ran ads in the newspaper. We  
2 did a joint ad in the newspaper that had both  
3 their logo and our logo. To the best of my  
4 memory, the resumes came to us. It's possible  
5 that AK also gave us resumes that they received  
6 somehow. I don't really recall. But the  
7 primary was our ads that generated the resumes  
8 that came into us.

9 Q. Do you have a copy of any of these  
10 ads?

11 A. No, but they would be readily  
12 available.

13 Q. In what newspapers did you --

14 A. Middletown Journal. They were in  
15 a lot of papers probably, but Middletown  
16 Journal would be one.

17 Q. What other newspapers might have  
18 it?

19 A. We generally advertise in the  
20 smaller newspapers. We could have -- I don't  
21 remember the names. There are weekly  
22 newspapers that are owned by Middletown, or  
23 whoever owned -- Thompson Newspapers, I

Page 23

1 believe, in 2000 owned the Middletown Journal.  
2 A lot of their weeklies. They have three or  
3 four. That is what we normally do with our  
4 ads, we advertise in the smaller newspapers.  
5 We feel we get more bang for our dollar in  
6 doing it that way.

7 It's possible we also could have  
8 done it in a larger newspaper, but I don't  
9 recall doing it in the Cincinnati Enquirer, but  
10 maybe we did one, or one in the Dayton paper.  
11 I don't recall doing that, but it's possible.

12 Q. Do you recall -- this application  
13 that you got from AK Steel, do you recall if it  
14 had a tear-off portion at the bottom of the  
15 application, the first page of the application?

16 A. I believe it did, but I'm not  
17 positive.

18 Q. Do you recall the information that  
19 was on the tear-off sheet?

20 A. No, I do not.

21 Q. So after you would go through this  
22 process of calling them to come in, calling the  
23 individuals who submitted the resumes, or if AK

Page 24

1 Steel gave you the resumes, whichever way, you  
2 would call the individuals and interview them?

3 A. We would call and set up a time  
4 for them to come in, and then they would be  
5 interviewed by us. I say interviewed. It was  
6 really just check the five or six, seven, I  
7 don't remember exactly how many there were,  
8 requirements that AK had.

9 Q. Okay. And this was on a separate  
10 sheet of paper that you would --

11 A. Yes.

12 Q. -- these questions that you would  
13 ask?

14 A. The way I remember it is we had a  
15 sheet that we would mark. We would ask the  
16 person. They did not get the sheet. We would  
17 ask the person, we would mark it, put it in  
18 their folder.

19 Q. Okay.

20 A. And then if there were any  
21 additional questions -- you know, sometimes  
22 they are not yes or no type answers as far as  
23 what people tell you, so sometimes we would put

Page 25

1 a note on it and let them make the decision.

2 Q. Okay. Did you ever indicate to AK  
3 Steel on these applications or these notes the  
4 race of the individual?

5 A. They never asked me to do that,  
6 no.

7 Q. Do you recall whether the race of  
8 the individual was part of the information on  
9 the tear-off sheet?

10 A. No, I do not.

11 Q. Did you ever do any testing of  
12 these individuals?

13 A. No. Well, I never did any AK  
14 testing of those individuals. It's possible  
15 those individuals had already been registered  
16 with us prior or registered with us after.

17 Q. Okay. And what difference would  
18 registering with you make? That might be a bad  
19 question, but did you have a test that you gave  
20 to individuals who came in?

21 A. We have a test that we give to  
22 people applying for a temp position with Palmer  
23 Temps, yes.

7 (Pages 22 to 25)

## FREEDOM COURT REPORTING

Page 26

1 Q. Would you give this test to people  
2 who were applying to work at AK Steel?

3 A. If someone came in and was  
4 applying for the AK Steel positions and asked  
5 us to register with us at the same time, we may  
6 have done it. I'm kind of remembering that we  
7 agreed not to work those people. You know, we  
8 don't want to steal -- you know, we are  
9 advertising for AK. We don't want to steal  
10 them and use them for us.

11 So my recollection is we had some  
12 sort of an agreement that we couldn't -- we  
13 wouldn't use them. So from that standpoint,  
14 I'm thinking no, we probably would not have  
15 tested them at that particular point. If they  
16 came back in a month later, two months later,  
17 or if they came in two months earlier, yes,  
18 definitely, if they had come in before.

19 Q. Okay. About how many applicants  
20 did you go through this process with for AK  
21 Steel?

22 A. I believe it was over a couple  
23 thousand.

Page 27

1 Q. Where are the records of these  
2 applicants?

3 A. AK. We sent them to AK.

4 Q. Did you retain any kind of record  
5 of these applicants?

6 A. Yes.

7 Q. How did you record the names of  
8 these people, or how did you keep a record of  
9 them?

10 A. We had -- at the time, we kept a  
11 copy of the information that they filled out.  
12 We no longer have those. Those have been gone  
13 for a long time. But we also have it in our  
14 computer system.

15 Q. Is it still in your computer  
16 system?

17 A. The majority are. I would believe  
18 almost all would be.

19 Q. Is this in the form of some kind  
20 of a spreadsheet program?

21 A. It's --

22 Q. What form does it take?

23 A. It's in our main system.

Page 28

1 Q. And do you have a program in your  
2 main system that takes this information in?

3 A. We have -- there's a system for  
4 temporary services that we have, and we have  
5 variable prompts. We can make them to be  
6 whatever we want in that system.

7 And when we did these projects for  
8 corporations where we did direct hire, we would  
9 use variable -- area -- certain ones for that  
10 that would identify the company, the date they  
11 came in.

12 Q. And is this just -- it's like you  
13 enter information into a screen, and then it  
14 puts it into your database? Is that how it  
15 works?

16 A. More or less.

17 Q. Well, if I am not saying it --

18 A. Well, it's a centralized database  
19 in the system. So it is going into the system.  
20 It's part -- it's a special programming. It's  
21 not like an Excel spreadsheet. It is special  
22 programs that come up on your screen that you  
23 fill in the information.

Page 29

1 Q. What's the name of this program?

2 A. Applied Systems Technology.

3 Q. Now, you said you no longer have  
4 hard copies of this information.

5 A. No.

6 Q. Now, why is that?

7 A. There was no use for us to keep  
8 them. We copied them at the beginning when we  
9 did these projects for these customers in case  
10 they got lost or if they had questions or  
11 anything, we would have access to it. And then  
12 after the project is done, there's no need for  
13 us to maintain those files.

14 Q. Okay. When you collected the  
15 applications or the files on the individuals  
16 who came in to apply, then, would AK Steel come  
17 and get them, a representative?

18 A. Sometimes they would come and get  
19 them. I think sometimes we had maybe our  
20 salesperson drop them off. I don't recall ever  
21 mailing them to them.

22 Q. Okay. In regard to this project  
23 that you have been describing in 2000 for



## FREEDOM COURT REPORTING

Page 30

1 direct hires for AK Steel, you had discussions  
 2 with Phyllis Short and perhaps someone else,  
 3 that was your testimony; is that correct?  
 4 A. Yes, that's correct.  
 5 Q. And you didn't have a formal  
 6 contract with them; is that your testimony?  
 7 A. That's correct.  
 8 Q. Did you ever memorialize your  
 9 agreement in any kind of letter of  
 10 understanding?  
 11 A. It's possible. We looked for it.  
 12 If there's one, we couldn't find it, or Mary  
 13 Jane looked for it.  
 14 Q. Did you ever have any E-mail  
 15 exchanges with anyone regarding this project?  
 16 A. Not that I recall, no.  
 17 MS. DONAHUE: Let's mark this as  
 18 Exhibit 3.  
 19 (Thereupon, Plaintiffs' Exhibit 3 was  
 20 marked for purposes of identification.)  
 21 Q. Do you recognize this document?  
 22 A. I recall sending a document to  
 23 Rusty, yes.

Page 31

1 Q. Do you recall if this is your  
 2 E-mail?  
 3 A. It looks like it, yes.  
 4 Q. I know it's in a different form  
 5 than what you have probably seen before. At  
 6 the bottom of page one, the E-mail indicates  
 7 from Richard Nunlist to Rusty Johnson on  
 8 September 10th, 2006.  
 9 A. Uh-huh.  
 10 Q. It starts off sorry for the delay  
 11 in getting back to you.  
 12 A. Uh-huh.  
 13 Q. Do you recall that Rusty  
 14 Johnson -- did he call you?  
 15 A. Well, I had verbal conversations  
 16 with him, and I believe I had other E-mails  
 17 from him before -- possibly before this one. I  
 18 really don't -- I don't recall if it was E-mail  
 19 or voice. I know I talked to him. He had  
 20 left -- the very first time was he called and  
 21 left a message for me. I don't know here if  
 22 I'm replying.  
 23 I assume I'm not replying to an

Page 32

1 E-mail from him on this, because I would have  
 2 just replied. Since I'm not replying, I assume  
 3 this is probably another voice mail that he  
 4 left. I believe he left a couple voice mails  
 5 for me.  
 6 Q. Okay. And did you -- is this  
 7 E-mail in response to a voice mail he sent you?  
 8 A. It's either voice mail or E-mail.  
 9 I assume it was a voice mail.  
 10 Q. Okay. Do you know what he was  
 11 calling you about?  
 12 A. He had called me about Don  
 13 Edwards, and I talked to him for maybe ten  
 14 minutes where he was asking me some questions  
 15 about Don Edwards.  
 16 Q. Do you remember what questions he  
 17 asked you?  
 18 A. I think the first question he  
 19 asked me was did Don Edwards, I believe it was,  
 20 apply for AK in August of 2001.  
 21 Q. Do you remember your response?  
 22 A. I know during that conversation I  
 23 had told him no, he had not. In fact, no one

Page 33

1 did, because we weren't taking any positions  
 2 for that. We had stopped doing that by that  
 3 point in time.  
 4 Q. Did you check any documents in  
 5 order to answer Mr. Johnson's question?  
 6 A. I looked at our system.  
 7 Q. Is this the system you talked  
 8 about before, Applied Systems Technology?  
 9 A. Yes. Yes.  
 10 Q. What in the system, Applied  
 11 Systems Technology system, would help you  
 12 answer this question?  
 13 A. I brought up Don Edwards, and  
 14 looked at -- I looked just to generally see  
 15 what was in under Don Edwards. There is a  
 16 field in that position or in there that stated  
 17 that he came in and applied with us in August  
 18 of 2000. But there's nothing -- there was  
 19 nothing for 2001 and --  
 20 Q. Do you recall -- go ahead.  
 21 A. In that conversation, I also told  
 22 him that there was -- that he did come in in  
 23 January of 2001, January 29th, and applied with

9 (Pages 30 to 33)

## FREEDOM COURT REPORTING

Page 34

1 us as a temp. I told -- he asked me at some  
 2 point during that conversation about did he  
 3 take the AK test or did he take a test. He  
 4 asked me I believe AK test.  
 5 And I -- somehow we got in on the  
 6 conversation that he did take a test with us in  
 7 January when he came in and registered with us  
 8 on January 29th. He took a Palmer Temps test.  
 9 He asked me for at one point a copy of the  
 10 test. And I told him before I could give him  
 11 anything else, I really needed a release from  
 12 Don Edwards on his records, that there really  
 13 wasn't much more I could tell him at that time.  
 14 Q. Okay. Anything else in your  
 15 conversation that you recall?  
 16 A. I can remember talking to him -- I  
 17 think he told me what he is saying is he came  
 18 in. I said it's possible that he -- that he  
 19 went to another temp service. He could have  
 20 gone somewhere else.  
 21 I think at one point he asked me  
 22 if am I saying he did not take the AK test, and  
 23 I said I'm not saying that. I don't know if he

Page 35

1 took the test or not. I can tell you he didn't  
 2 take it here. But I don't know who is taking  
 3 the test and who is not.  
 4 Q. Is there anything else you can  
 5 recall about this conversation?  
 6 A. There must have been some other  
 7 things since the conversation in my mind lasted  
 8 five or ten minutes, but I do not recall what  
 9 they were.  
 10 Q. Okay. Is there anything else that  
 11 you can recall that was in your Applied Systems  
 12 Technology system when you pulled up the name  
 13 Don Edwards? Do you recall anything else?  
 14 A. Well, it was in there that he came  
 15 in on the 29th. I mean, I did not tell Randy  
 16 [sic] at the time, but that he took -- told me  
 17 which test he took.  
 18 Q. The screen that you brought up?  
 19 A. Yeah. There's multiple screens.  
 20 I mean --  
 21 Q. Yeah. The data that you brought  
 22 up?  
 23 A. Yes, that's what I'm saying,

Page 36

1 that's all in that system.  
 2 Q. Okay. Would it be possible to  
 3 print out the information you have on Don  
 4 Edwards in your system?  
 5 A. It is still possible. The only  
 6 question I would still have is do I need his  
 7 release.  
 8 Q. Okay.  
 9 A. My attorney might be able to tell  
 10 me that. I just --  
 11 Q. But it would be -- it's physically  
 12 possible to do a printout command for the  
 13 information in that system?  
 14 A. I think we can, yes. That's not  
 15 something we normally do, but I do believe -- I  
 16 imagine there's some way I can capture that  
 17 screen and print it out.  
 18 Q. Okay. Now, you said earlier that  
 19 this project that you did for AK Steel, they  
 20 wanted you to end it at the end of 2000?  
 21 A. Uh-huh.  
 22 Q. But that you carried on into the  
 23 beginning of 2001 for some time?

Page 37

1 A. What -- what we did is we stopped  
 2 it the day they asked us as far as getting new  
 3 candidates, but we had already scheduled some  
 4 candidates into the first couple days of  
 5 January.  
 6 Q. I see.  
 7 A. And what we asked them, I actually  
 8 requested it, is I didn't want to -- you know,  
 9 some of them applying for a job that has my  
 10 name on it, they apply, and I set up an  
 11 appointment for them to come in, and then turn  
 12 around and tell them forget it. We don't like  
 13 doing that.  
 14 Q. Right. And AK Steel --  
 15 A. It's not good for business.  
 16 Q. I understand. Did AK Steel allow  
 17 you, then, to carry on?  
 18 A. They let us go ahead and finish  
 19 those that we had out there that were for a few  
 20 more days.  
 21 Q. Do you know who Don Edwards met  
 22 with when he came in on January 29th?  
 23 A. No. Is Rusty Johnson still with

10 (Pages 34 to 37)

## FREEDOM COURT REPORTING

<p style="text-align: right;">Page 38</p> <p>1 your company?</p> <p>2 Q. Yes. Yeah, he is. He is home</p> <p>3 taking care of his daughter today.</p> <p>4 A. Okay.</p> <p>5 MS. DONAHUE: Can we mark this for</p> <p>6 this depo? This was Exhibit 4 of Mary Jane's</p> <p>7 deposition.</p> <p>8 (Thereupon, Plaintiffs' Exhibit 4 was</p> <p>9 marked for purposes of identification.)</p> <p>10 Q. Do you recognize the document that</p> <p>11 has been marked as Exhibit 4 in your</p> <p>12 deposition?</p> <p>13 A. You say do I recognize it? I</p> <p>14 don't believe I have ever seen this before that</p> <p>15 I recall.</p> <p>16 Q. Okay.</p> <p>17 A. I mean, I see it's an application</p> <p>18 for AK, so I assume it's their application,</p> <p>19 but --</p> <p>20 Q. Disregarding the content of it,</p> <p>21 have you seen this AK form before?</p> <p>22 A. The AK forms I saw, if I remember</p> <p>23 correctly, are gray. I understand this is a</p>	<p style="text-align: right;">Page 40</p> <p>1 didn't memorize their application.</p> <p>2 Q. I understand.</p> <p>3 A. I'm just filling it out -- or I'm</p> <p>4 not filling it out, the applicants were filling</p> <p>5 it out, and we are sending it to them.</p> <p>6 Q. But you did see AK Steel's</p> <p>7 applications when they were in your office</p> <p>8 waiting to be filled out by individuals? You</p> <p>9 had seen them?</p> <p>10 A. I saw the blank ones.</p> <p>11 Q. Yeah.</p> <p>12 A. I mean, they came in packets of</p> <p>13 like 50 in Saran wrap.</p> <p>14 Q. Okay. And the date on here is?</p> <p>15 Can you see?</p> <p>16 A. August 28th, 2000.</p> <p>17 Q. 2000. So this date would be</p> <p>18 within that time of when you were doing this</p> <p>19 direct hire project?</p> <p>20 A. Yes, it is.</p> <p>21 Q. Now, do you know if Donald Edwards</p> <p>22 came into your office on 8-28 to fill out this</p> <p>23 application?</p>
<p style="text-align: right;">Page 39</p> <p>1 photocopy. But I didn't -- I really don't know</p> <p>2 their application, if that's what you are</p> <p>3 asking me. I can't tell you for sure this is</p> <p>4 their application.</p> <p>5 Q. Okay. Do you know whether this</p> <p>6 was the application form that they gave you to</p> <p>7 distribute?</p> <p>8 A. Not at this time. I really -- I</p> <p>9 mean, they gave us forms, if I remember right,</p> <p>10 on gray paper.</p> <p>11 Q. Well, that wouldn't show up.</p> <p>12 A. I think they were four pages.</p> <p>13 Q. Okay.</p> <p>14 A. And my recollection is they were</p> <p>15 folded in half. They were not, you know, four</p> <p>16 sheets. There was a bigger sheet that folded</p> <p>17 in half is my recollection of their</p> <p>18 application.</p> <p>19 Q. But if you were going to make a</p> <p>20 photocopy of it --</p> <p>21 A. I understand the photocopy, but</p> <p>22 what I'm saying is I got their applications.</p> <p>23 There were stacks of their applications. I</p>	<p style="text-align: right;">Page 41</p> <p>1 A. Yes.</p> <p>2 Q. You do know?</p> <p>3 A. I don't know if he filled out this</p> <p>4 application. He came into our office in August</p> <p>5 of 2000.</p> <p>6 Q. Okay. Do you see the little</p> <p>7 handwritten notation up in the upper right-hand</p> <p>8 corner?</p> <p>9 A. The P?</p> <p>10 Q. The P with a checkmark.</p> <p>11 A. I see it.</p> <p>12 Q. Does that indicate anything to</p> <p>13 you?</p> <p>14 A. No.</p> <p>15 Q. Do you know if your people on your</p> <p>16 staff put a P up there to indicate that the</p> <p>17 application came from Palmer Temps?</p> <p>18 A. Oh. I don't recall us doing that,</p> <p>19 but they may have done that when they received</p> <p>20 the applications.</p> <p>21 Q. Yeah. Okay. But you had no</p> <p>22 knowledge of --</p> <p>23 A. I had no knowledge of putting a P</p>

## FREEDOM COURT REPORTING

Page 42

1 for Palmer, but --

2 Q. Okay. Did AK Steel, other than  
3 this list of questions that you asked them when  
4 they came in to fill out their application, do  
5 you recall what was on that list?

6 A. I really can't recall. I can  
7 remember what I believe were a couple of the  
8 things that were on it.

9 Q. Okay.

10 A. I believe they had a question that  
11 dealt with heights. I don't remember exactly  
12 how it was worded. I think they wanted to make  
13 sure people were not scared of heights. I  
14 don't know if the question was can you work  
15 over 50 feet, if you are scared of heights. I  
16 don't remember the exact question.

17 I remember there was a question I  
18 think that they had that dealt with -- oh, the  
19 work as far as working three shifts. There was  
20 something about maybe are you available to work  
21 three shifts. I really don't remember -- I  
22 can't recall what any of the other questions  
23 would be at this point.

Page 43

1 I don't think it was on there. I  
2 do think they had a requirement, I think I said  
3 earlier, of the high school. I don't know if  
4 that would have been one of those questions or  
5 not. That may have been done earlier.

6 Q. So did you ever actually sit down  
7 and ask questions of an applicant using this  
8 list?

9 A. I don't think I did.

10 Q. Okay. Did you ever review the  
11 answers that were given by anyone else?

12 A. I don't recall ever. I mean, I  
13 may have been asked sometime -- you know, like  
14 I say, sometimes there was a question as to is  
15 this yes or no. My general reply would be to  
16 put -- you know, put a note on it and send it  
17 to AK and let them decide.

18 Q. Did your office do any kind of  
19 screening of the applications?

20 A. They got all applications.

21 Q. Did you put them -- did you sort  
22 them into --

23 A. We did sort them between those

Page 44

1 that had an application and those that didn't  
2 have an application.

3 Q. The ones that didn't have an  
4 application would just have the resume that was  
5 submitted?

6 A. Primarily. No, they could have  
7 had the questions. I would assume there would  
8 have been the question they answered. Let's  
9 say they were afraid of heights or something  
10 like that. We would have marked that and put  
11 that in that file and sent it to them.

12 Q. But then why would they be missing  
13 their application?

14 A. Well, they didn't get the  
15 application until after they answered those  
16 questions.

17 Q. Oh, I see. And then would you  
18 deny people an application based on their  
19 answers to the questions?

20 A. I don't know if I would use the  
21 word deny. We didn't offer them an  
22 application.

23 Q. So you would then use that as a

Page 45

1 screening to give them -- actually give them  
2 the application form?

3 A. It was based upon the requirements  
4 that AK said, and AK said they needed to answer  
5 these questions a certain way.

6 Q. In order to get the application  
7 form?

8 A. To go forward with the process.

9 Q. Okay.

10 A. Now, that doesn't mean that AK --  
11 once they received them, I would have no idea  
12 what they did with those.

13 Q. I understand. So if you -- if  
14 someone came in after they submitted a resume  
15 and you called them to come in, and then they  
16 would sit down with one of your staff people  
17 who would ask them the questions, and then that  
18 person would decide whether or not to give them  
19 an application form?

20 A. Yes, based upon their answers to  
21 that question.

22 Q. Okay. If they did not give them  
23 an application form, would they -- would the

12 (Pages 42 to 45)

## FREEDOM COURT REPORTING

Page 46

1 applicant or the person who came in have any  
2 way of knowing that they were not being -- they  
3 were being -- I guess denied is not the word  
4 you want, but having it withheld?

5 A. Sometimes they realized that there  
6 seemed to be different processes, because maybe  
7 two people would come in together and something  
8 like that.

9 Q. Okay. So it would be possible,  
10 then, for a person to come in and go through  
11 this procedure of being interviewed and  
12 answering the questions, and then your staff  
13 person would decide not to give them the  
14 application, and they would leave. Would they  
15 have any way of knowing that they had not, in  
16 fact, applied?

17 A. Well, again, you get tied up in  
18 words. But I know this is legal, so you say  
19 they haven't applied. In one sense I guess  
20 they did kind of apply, it's just that it is  
21 being stopped at that point until AK makes a  
22 further decision if they want that individual  
23 to come in and fill out an application.

Page 47

1 We are not offering them an  
2 application at that time. It did not mean that  
3 they would never get an application from AK.  
4 The assumption is in most cases they would not,  
5 but --

6 Q. Did you say to them we are not  
7 giving you an application at this time?

8 A. No.

9 Q. So it would be possible for  
10 someone who didn't understand this process to  
11 have it in their mind that they had, in fact,  
12 applied, when actually they had not filled out  
13 an application?

14 A. Yes, I guess -- yes.

15 MS. DONAHUE: Okay. Let's look at  
16 this one -- mark this one. I guess it's going to  
17 be Number 6. Well, where are we? This will be  
18 Exhibit 5.

19 (Thereupon, Plaintiffs' Exhibit 5 was  
20 marked for purposes of identification.)

21 Q. Mr. Nunlist, have you seen this  
22 document before?

23 A. I'm not sure.

Page 48

1 Q. Okay. Is this the form you were  
2 talking about of the questions that were asked  
3 to people?

4 A. That's why I'm not sure. I don't  
5 recall this many questions, and I was looking  
6 to see if there was anything on here about  
7 heights. So -- and I don't see it on here, so  
8 that's why I'm thinking this is not. And I  
9 don't remember it being -- the form being this  
10 neat, to be honest.

11 Q. Can you see the date at the  
12 bottom?

13 A. Yes.

14 Q. 8-28-2000, which is the same date  
15 that Donald Edwards also filled out the  
16 application?

17 A. Yes. I mean, from that, it looks  
18 like it possibly was, but --

19 Q. However, this one has his  
20 signature on it, and you were indicating before  
21 that the questions that were asked by your  
22 staff people were not -- it was not a form that  
23 you gave to the person, it was just --

Page 49

1 A. That's correct, I do not remember  
2 us giving them that. What I'm remembering is  
3 five or six questions that they read. Now, did  
4 they -- I don't recall this, but looking at  
5 this, did they ask the questions? I don't know  
6 if this is him circling this and then having  
7 him sign it. I don't remember that being part  
8 of the process at this time.

9 Q. Is it possible that this was part  
10 of the process?

11 A. I guess it is possible.

12 Q. Are these the kind of questions  
13 that you recall from the list of questions that  
14 your staff asked?

15 A. The two questions I thought that I  
16 recall is the rotating shifts and the height,  
17 and rotating shifts really isn't on here on  
18 question 14. The 14 is have you ever worked  
19 rotating shifts for a previous employer. I  
20 don't recall that being a requirement for AK  
21 that they worked rotating shifts. The question  
22 I recall is would you or do you have difficulty  
23 or was there any problem working, something in

13 (Pages 46 to 49)



## FREEDOM COURT REPORTING

<p style="text-align: right;">Page 50</p> <p>1 that type of framework.  2 Also I don't see anything on here  3 about heights. Oh, I do see one. Number eight  4 is about rotating, but -- so that's why I don't  5 know.  6 Q. Okay. Is it your belief, then,  7 that when Donald Edwards came into your office  8 in January of 2001, that he was applying to  9 register with you for temporary positions?  10 A. That's what he was doing.  11 Q. Is that what -- is that based on  12 the information in your data --  13 A. Yes.  14 Q. -- system? Okay. Forgive me if I  15 asked you this already.  16 A. That's fine.  17 Q. Does your data system or do you  18 recall that he did take a test?  19 A. Yes.  20 Q. Okay. And it's your belief that  21 he took the test that Palmer Temps gives to  22 people who are registering for temporary  23 positions?</p>	<p style="text-align: right;">Page 52</p> <p>1 A. For temps.  2 Q. And for which positions?  3 A. It doesn't -- well, it's really  4 for all temp positions.  5 Q. All temp positions?  6 A. It's for all temp and payroll  7 positions.  8 Q. And what's the day of this  9 contract?  10 A. It was -- the print date was  11 April 7th, '06. The effective date was  12 April 1st, '06.  13 Q. And when was the end date?  14 A. April 1st, '07.  15 Q. So this was something that was in  16 effect for one year?  17 A. Yes, it was a one-year contract.  18 Q. And what was -- the contract was  19 to supply temporary employees to AK Steel?  20 A. Uh-huh. Temporary or payrolled  21 employees.  22 Q. What are payrolled employees?  23 A. Payrolled employees are sometimes</p>
<p style="text-align: right;">Page 51</p> <p>1 A. It's not my belief. That is what  2 he took.  3 Q. Okay. That's what he took. And  4 the data system indicates that to you?  5 A. Yes.  6 Q. Do you have any knowledge of  7 whether Donald Edwards ever worked for AK  8 Steel?  9 A. No.  10 MS. DONAHUE: I'm going to mark this.  11 This is Exhibit 3 in Mary Jane's. We will mark it  12 as Exhibit 6 here.  13 (Thereupon, Plaintiffs' Exhibit 6 was  14 marked for purposes of identification.)  15 Q. Do you recognize this document  16 that we have marked as Exhibit 6 to your  17 deposition?  18 A. Uh-huh.  19 Q. What is this?  20 A. It's an expired contract with AK  21 Steel.  22 Q. Okay. And what is this contract  23 for?</p>	<p style="text-align: right;">Page 53</p> <p>1 where they may have -- basically, they are like  2 consultants. AK may know someone that they  3 want to come in, but they run them through us.  4 So we are not finding that individual. That's  5 the main difference is that with a normal temp  6 position, we recruit the position. On a  7 payrolled employee, they send them to us, and  8 they may work them for one week, one month,  9 three months. It differs.  10 Q. I see. So these employees -- this  11 contract is a contract for you to do the  12 payroll for certain temporary employees that AK  13 Steel has already found, or do you find them?  14 A. No. No. The temps we find. A  15 payrolled employee they would find. They would  16 know -- most of the times they are retirees,  17 and they need to bring someone that has retired  18 back in, and they run them through us to bring  19 them back through after they have retired.  20 Q. When you say they run them through  21 us, do you mean you do the paperwork on them?  22 A. They are our employee.  23 Q. They are your employee?</p>



## FREEDOM COURT REPORTING

<p style="text-align: right;">Page 54</p> <p>1 A. At that point, they are on our 2 payroll. They are our employee. 3 Q. Then they work on a temporary 4 basis at AK Steel? 5 A. Yes. 6 Q. And these could be laborer 7 positions? 8 A. We don't do mill positions. We do 9 people in the plant, because they have -- 10 sometimes the consultants are consulting on a 11 specific -- but we don't do -- basically, we 12 don't do any of the union type jobs. Our 13 business is mostly office and professional. We 14 are not into heavy -- we don't do heavy 15 industrial positions. 16 Q. But you do have a person in the 17 area called industrial? 18 A. Yeah, because we do have some part 19 of our business that does packaging. It's 20 light industrial is what we -- in our business, 21 there's a difference between heavy and light 22 industrial. We don't do heavy industrial, we 23 do light industrial.</p>	<p style="text-align: right;">Page 56</p> <p>1 marked for purposes of identification.) 2 Q. Do you recognize this document 3 that we have marked as Exhibit 7? 4 A. Yes. 5 Q. What is this? 6 A. This was an E-mail that Mary Jane 7 sent to me to review regarding the contract. 8 Q. What contract was it? 9 A. This contract, Exhibit 6. 10 Q. 6. Okay. And you can see at the 11 bottom of the page the last paragraph, it 12 indicates that you have had AK Steel for a 13 customer for over 20 years? 14 A. Uh-huh. 15 Q. Is that -- 16 A. That's what I just said, I 17 thought. 18 Q. That's right. And -- okay. Do 19 you have any contracts with AK Steel presently? 20 A. No. 21 Q. Do you expect to have any in the 22 future? 23 A. Well, it depends what you mean by</p>
<p style="text-align: right;">Page 55</p> <p>1 Q. Okay. 2 A. And the AK plant would be 3 considered for most of the work that's out 4 there heavy industrial. 5 Q. Right. So you -- is it your 6 testimony that you do not provide temporary 7 employees to AK Steel in the mill as production 8 employees? 9 A. I don't know of any that we have 10 as production employees. 11 Q. Have you ever had any temporary 12 employees as production? 13 A. Boy, you say ever. You are going 14 back 20 years. Not that I'm aware of. We used 15 to do more in the industrial area, but I don't 16 recall us ever doing industrial, the heavy 17 industrial. 18 Q. Okay. 19 A. The people we do are engineers, 20 those type of people, you know, not laborers. 21 MS. DONAHUE: Okay. Let's mark this 22 one. 23 (Thereupon, Plaintiffs' Exhibit 7 was</p>	<p style="text-align: right;">Page 57</p> <p>1 contract. We are doing business with AK 2 presently. I don't like -- I prefer not to 3 have contracts. 4 Q. Okay. 5 A. We have a time slip that has some 6 verbiage on it that we consider the only 7 contract that we use with any of our customers. 8 As long as they keep -- you know, we went many 9 years without a contract with AK. Then all of 10 a sudden someone decided they had to have a 11 contract. 12 Every time a large corporation 13 wants a contract, they want you to lower your 14 pricing. I don't like contracts. 15 Q. They have to have a lawyer review 16 it. Is that why? 17 A. It's not the lawyer. The buyer, 18 the only way he is going to get brownie points 19 is if he gets something out of you. If he goes 20 back and says, hey, I got a new contract, the 21 price is going up, it's not going to help his 22 career. 23 Q. It just becomes a commodity then?</p>

15 (Pages 54 to 57)

## FREEDOM COURT REPORTING

<p style="text-align: right;">Page 58</p> <p>1 A. It's just always a hassle.</p> <p>2 Q. All right. Let me --</p> <p>3 A. And most contracts my attorneys</p> <p>4 say have so many loop holes in them anyway,</p> <p>5 they don't do any good for us, they only help</p> <p>6 the persons writing them.</p> <p>7 MS. DONAHUE: Okay. I'm not going to</p> <p>8 make general comments about lawyers and contracts.</p> <p>9 Let's mark this one 8.</p> <p>10 (Thereupon, Plaintiffs' Exhibit 8 was</p> <p>11 marked for purposes of identification.)</p> <p>12 Q. Do you recognize this document?</p> <p>13 A. Uh-huh. It's a time slip.</p> <p>14 Q. What is this?</p> <p>15 A. It's the front page -- it's the</p> <p>16 front of our time slip.</p> <p>17 Q. And who fills out this time slip?</p> <p>18 It was produced to us. I didn't know why.</p> <p>19 A. The reason is you are missing the</p> <p>20 back of it. The back of it has the verbiage on</p> <p>21 it. That's the closest thing we come to a</p> <p>22 contract. You requested all contracts.</p> <p>23 MS. DONAHUE: Oh, I see. I will have</p>	<p style="text-align: right;">Page 60</p> <p>1 deals with the customer. I think if you read</p> <p>2 here, let's see, someplace, down at the bottom</p> <p>3 there it says important for customer, the</p> <p>4 second kind of the bottom square right above</p> <p>5 their signature, I certify that hours shown are</p> <p>6 correct, work was performed satisfactorily, and</p> <p>7 that the customer agrees to terms and</p> <p>8 conditions on reverse side of this form.</p> <p>9 Q. Oh, okay. But this was only used</p> <p>10 for temporary employees, right?</p> <p>11 A. Payrolled. Well, yeah, payrolled,</p> <p>12 temporary. It was not used for that special</p> <p>13 project, because that had nothing to do with</p> <p>14 this.</p> <p>15 Q. That's fine. I wanted to clarify</p> <p>16 why I got that document.</p> <p>17 A. That's why. You asked for all</p> <p>18 contracts. Honestly, I forgot about this.</p> <p>19 That really is our contract. It's the closest</p> <p>20 thing we have. Believe me, as you can see,</p> <p>21 there couldn't be too much on the back. It</p> <p>22 also has the employee's area. But that's what</p> <p>23 is there.</p>
<p style="text-align: right;">Page 59</p> <p>1 to look again at what was produced to us, because</p> <p>2 it seems to me that that's all we got. Maybe we</p> <p>3 didn't get the back side. Greg?</p> <p>4 MR. ROGERS: I have no idea. I gave</p> <p>5 the file that Richard gave me to my secretary and</p> <p>6 said copy it.</p> <p>7 THE WITNESS: I gave them an actual</p> <p>8 time slip.</p> <p>9 Q. And she made a PDF version of all</p> <p>10 of the documents and sent the PDF to me, so</p> <p>11 perhaps she didn't copy the back.</p> <p>12 MR. ROGERS: It could be. I have no</p> <p>13 idea.</p> <p>14 MS. DONAHUE: Okay.</p> <p>15 MR. ROGERS: None.</p> <p>16 THE WITNESS: I can tell you</p> <p>17 generally what's -- there's a lot of wording, but</p> <p>18 it all fits on the back in small print.</p> <p>19 Q. No, I didn't understand why we got</p> <p>20 these, and now I understand.</p> <p>21 A. There's a top section that deals</p> <p>22 with the employee's responsibilities and stuff,</p> <p>23 and then there's another little section that</p>	<p style="text-align: right;">Page 61</p> <p>1 Q. If we need that, we can ask them</p> <p>2 to flip it over and do the other side, but we</p> <p>3 might not need it.</p> <p>4 Do you complete paperwork for the</p> <p>5 City of Middletown?</p> <p>6 A. Do I complete paperwork?</p> <p>7 Q. Maybe I'm not saying it in the</p> <p>8 right way. You talked about how for AK Steel,</p> <p>9 you have employees, and you -- they are your</p> <p>10 employees, but they are temporary employees at</p> <p>11 AK Steel, and you do the paperwork for them.</p> <p>12 Is that -- have I --</p> <p>13 A. Are you asking me if I do</p> <p>14 payrolled employees for the City of Middletown?</p> <p>15 Q. Yes.</p> <p>16 THE WITNESS: That's getting into the</p> <p>17 EEOC case.</p> <p>18 MR. ROGERS: Answer the question.</p> <p>19 THE WITNESS: Answer that question?</p> <p>20 Yes.</p> <p>21 Q. Did Donald Edwards come to Palmer</p> <p>22 Temps in September of 2006 to your knowledge?</p> <p>23 A. I don't know that date. I don't</p>

16 (Pages 58 to 61)

## FREEDOM COURT REPORTING

<p style="text-align: right;">Page 62</p> <p>1 know the date that he came.  2 Q. In September?  3 A. I don't -- I don't know. I don't  4 even know it was September. I know -- I mean,  5 I really don't know the date.  6 MR. ROGERS: Then you don't have to  7 answer.  8 Q. Okay. Do you know if Donald  9 Edwards came to Palmer Temps to ask you to  10 complete some paperwork for a job that he had  11 received from the City of Middletown?  12 A. You said he received. So the City  13 of Middletown gave him a job? He wouldn't be  14 coming to us for a job if he got it from the  15 City of Middletown.  16 Q. Well, did he come --  17 A. I'm not trying to be difficult,  18 but there are differences.  19 Q. I understand. But did he come to  20 your office asking to complete paperwork for a  21 job that he had been offered at the City of  22 Middletown, either whether it was going to come  23 from your office or from the city?</p>	<p style="text-align: right;">Page 64</p> <p>1 you go fishing into the EEOC charge, which is  2 still pending. Taking a deposition in this case  3 for that charge I don't believe to be proper.  4 Whether he came in, whether he was offered certain  5 opportunities I think are fair game, but beyond  6 that, I don't think it is fair game.  7 MS. DONAHUE: All right. Well, we  8 will just continue and see.  9 Q. Who talked with him when he came?  10 MR. ROGERS: Go ahead and answer  11 that.  12 THE WITNESS: When he came in the  13 office, it was Amy.  14 Q. Okay. Do you know what Amy said  15 to him?  16 MR. ROGERS: Yeah, this is all --  17 Q. Do you know if he was allowed to  18 fill out paperwork for the City of  19 Middletown --  20 MR. ROGERS: You can answer that.  21 Q. -- job?  22 A. I will answer it, but -- no, he  23 did not fill out paperwork.</p>
<p style="text-align: right;">Page 63</p> <p>1 THE WITNESS: Should I continue?  2 MR. ROGERS: Answer that one.  3 THE WITNESS: He came at some point.  4 I don't -- September, 2006, sounds reasonable. I  5 don't know the date. He did come to our office at  6 one point about a payrolled position at the City  7 of Middletown.  8 Q. Okay. And did you speak with him  9 at that time?  10 A. I wasn't in town.  11 Q. Okay. Do you know who did speak  12 with him?  13 A. Yes.  14 Q. Who spoke with him?  15 THE WITNESS: Do I continue to go  16 down this --  17 MS. DONAHUE: This is part and parcel  18 of the same lawsuit.  19 MR. ROGERS: It is not.  20 THE WITNESS: Are you representing  21 him in the EEOC charge?  22 MS. DONAHUE: Yeah, of course. Yes.  23 MR. ROGERS: We are not going to let</p>	<p style="text-align: right;">Page 65</p> <p>1 Q. All right. Do you know why he  2 was not --  3 MR. ROGERS: That is -- I object.  4 That is part of the EEOC investigation.  5 MS. DONAHUE: Well, this is part and  6 parcel of the same lawsuit.  7 MR. ROGERS: It is not part and  8 parcel.  9 MS. BISSELBERG: It's a different  10 lawsuit.  11 MS. DONAHUE: Well, it's a different  12 lawsuit, but it's related to --  13 THE WITNESS: First of all -- hold  14 it. Do we have a lawsuit? Is there a lawsuit  15 against us?  16 MR. ROGERS: No, there is no lawsuit.  17 MS. DONAHUE: There's an EEOC charge.  18 MR. ROGERS: There is an EEOC charge.  19 Q. If you look back at Exhibit 3 in  20 your deposition here --  21 A. Yes.  22 Q. -- on September 10, 2006, this  23 E-mail indicates that you knew that Donald</p>

## FREEDOM COURT REPORTING

<p style="text-align: right;">Page 66</p> <p>1 Edwards was involved in a lawsuit against AK 2 Steel; is that correct? 3 A. Well, your attorney told me. 4 Q. Yeah. So on September 10th, you 5 were aware of that based on what Rusty Johnson 6 told you? 7 A. Yes. 8 Q. Okay. Did you communicate that 9 knowledge to anyone at Palmer Temps? 10 MR. ROGERS: Again, I think that's 11 part of -- you are getting into the EEOC charge. 12 MS. DONAHUE: I think that's a fair 13 question. 14 Q. Did you -- 15 MR. ROGERS: No, I don't think that's 16 a proper question for this deposition. 17 MS. DONAHUE: Are you instructing him 18 not to answer? You can make an objection. If you 19 are instructing him not to answer, we can call the 20 Court. You can make an objection, but you still 21 have to answer the question. 22 MR. ROGERS: I'm instructing him not 23 to answer.</p>	<p style="text-align: right;">Page 68</p> <p>1 that, and he answered that. 2 Q. Well, is that true? You 3 understood in September of 2006 -- 4 MR. ROGERS: You can answer that. 5 THE WITNESS: Yes. 6 Q. -- that Donald Edwards was 7 involved in a lawsuit with AK Steel that also 8 involved Palmer Temps; is that correct? 9 A. Hold it. Could you read -- 10 Q. In September -- 11 MS. DONAHUE: Read back the question. 12 (Record read.) 13 THE WITNESS: No, I didn't know that 14 it involved Palmer Temps. 15 Q. Well, you knew that Rusty Johnson 16 was asking you for information about Donald 17 Edwards? 18 A. Well, yeah, but that doesn't -- I 19 thought when I sent this E-mail -- in fact, I 20 thought he told me, and I don't know if it was 21 in the E-mail or voice, I thought this was a 22 done -- we weren't involved. We weren't 23 involved in the lawsuit.</p>
<p style="text-align: right;">Page 67</p> <p>1 MS. DONAHUE: On what basis? 2 MR. ROGERS: On the basis there's a 3 pending EEOC charge, and this is the wrong 4 vehicle. You are not allowed to take depositions 5 in EEOC charges. 6 MS. DONAHUE: This is about his 7 involvement with Palmer Temps and AK Steel, and I 8 think it's a proper question. 9 MR. ROGERS: It's five years after 10 the fact. 11 MS. DONAHUE: Well, it doesn't 12 matter. 13 MR. ROGERS: Sure it does. This has 14 nothing to do with AK Steel. It has to do with 15 the City of Middletown and a charge that he filed. 16 THE WITNESS: She tells me she 17 represents him in the EEOC case. I didn't know 18 that either. 19 Q. In September of 2006, you had 20 knowledge of Donald Edwards' involvement with 21 AK Steel and involvement with your office; is 22 that true? 23 MR. ROGERS: Objection. You asked</p>	<p style="text-align: right;">Page 69</p> <p>1 I mean, yeah, he called and said 2 this guy says he came in. I said no, he didn't 3 come in. We never gave that test. To me, that 4 was the end of the discussion. So, no, I 5 didn't think we were involved in the lawsuit. 6 Q. Well, did you understand that you 7 were a witness to an aspect of the lawsuit and 8 that's why you were being asked the question, a 9 factual question? 10 A. I wasn't -- well, in your 11 terminology maybe I was a witness. In my 12 thinking, we didn't give anybody the test that 13 AK -- at Palmer Temps ever. We never -- Don 14 Edwards did not come in in August of 2001. So, 15 you know, I guess in my mind, I wasn't part of 16 it. 17 Now, you are saying I'm a witness. 18 I guess I'm a witness to something that didn't 19 happen. 20 Q. Well, yeah. 21 A. But I never think of being a 22 witness to something that never happened. 23 Q. I understand that distinction in a</p>

## FREEDOM COURT REPORTING

Page 70

1 layperson's mind.  
 2 A. In the legal, maybe I am a  
 3 witness, but I didn't see me as being a  
 4 witness.  
 5 Q. I understand. But, in fact, you  
 6 had knowledge that related to the lawsuit and  
 7 related to Donald Edwards?  
 8 A. It didn't relate to the lawsuit in  
 9 my opinion.  
 10 Q. Well --  
 11 A. I mean, obviously it does. I'm  
 12 here today.  
 13 Q. Right.  
 14 A. But at that particular point in  
 15 time.  
 16 Q. That's fair. At that time in your  
 17 mind, you were not thinking that particular --  
 18 you were not thinking that you had information  
 19 pertaining to the lawsuit against --  
 20 A. I still believe we don't. We  
 21 weren't doing -- we never did that test at  
 22 Palmer Temps. He didn't come in. So, you  
 23 know, that's why I guess it's --

Page 71

1 Q. If it's a disputed fact and you  
 2 have knowledge, then you have knowledge, right?  
 3 A. I would say that is true if it was  
 4 an event that took place. If it is an event  
 5 that didn't take place and -- again, legally, I  
 6 mean, you all are attorneys, I'm not, so -- but  
 7 in my mind, and as I told you -- another thing  
 8 that I did discuss, I just remembered, with  
 9 Rusty is the fact that so many times these  
 10 people are confused as -- you know, in fact, I  
 11 did mention that to you as to like maybe they  
 12 took the test somewhere else.  
 13 I thought -- I didn't think much  
 14 about it. It was no big -- it was no big deal  
 15 to me. I didn't notice in the system that  
 16 anybody called over this issue.  
 17 Q. Okay. Did you understand when you  
 18 talked to Rusty that there was -- there was  
 19 some factual material he wanted to -- he wanted  
 20 you to provide for him?  
 21 A. This E-mail is all he asked for.  
 22 He asked -- he asked for additional  
 23 information, but I told him I needed a release,

Page 72

1 and he acted like to me that nothing else was  
 2 going to be needed. He just needed something  
 3 from me so he had it that said that he did not  
 4 apply in August of 2001. And that's why I sent  
 5 that.  
 6 I didn't hear anything about this  
 7 again really until, I guess, AK requested  
 8 the -- Mary Jane to do the statement or the --  
 9 whatever you call that document that she did.  
 10 Q. Okay. But I don't think you  
 11 really answered my question. When you talked  
 12 to Rusty Johnson on September 10th, he was  
 13 asking you for information related to --  
 14 A. I did not talk to him on  
 15 September 10th.  
 16 Q. When you had this E-mail exchange  
 17 with him.  
 18 A. Oh, Rusty. I'm sorry. With  
 19 Rusty.  
 20 Q. With Rusty, right. You understood  
 21 that he was asking for factual information  
 22 related to the lawsuit against AK Steel that  
 23 Donald Edwards was involved in?

Page 73

1 A. He told me at the very beginning  
 2 that he was an attorney representing Donald  
 3 Edwards on a suit. I assume he said with AK.  
 4 He didn't give me any information as to what  
 5 the suit was really about or anything. He  
 6 asked me some questions, you know.  
 7 Q. And he wanted -- he asked you some  
 8 factual -- some questions to which you could  
 9 provide some facts; is that true?  
 10 A. He asked me some questions that I  
 11 responded to.  
 12 Q. And you provided some factual  
 13 material to him?  
 14 A. The only thing I provided to him  
 15 was this E-mail.  
 16 Q. Right. Okay. Does this E-mail  
 17 contain factual material?  
 18 A. It states that he did not come in  
 19 in 2001. I guess you could say that states  
 20 factual information, but that's --  
 21 Q. Okay.  
 22 A. I did not understand why this was  
 23 such a big issue, because I didn't understand

19 (Pages 70 to 73)



## FREEDOM COURT REPORTING

<p style="text-align: right;">Page 74</p> <p>1 the lawsuit.</p> <p>2 Q. Well, okay. That's fine.</p> <p>3 A. I mean, I get calls from</p> <p>4 attorneys, other attorneys, and they ask me one</p> <p>5 or two questions on divorces and everything</p> <p>6 else. I don't think that I'm -- you know, I</p> <p>7 have got all this information that they need.</p> <p>8 I mean, they ask me -- you know husbands and</p> <p>9 wives fighting, it's limited what we can say.</p> <p>10 But we get subpoenas from other -- for</p> <p>11 materials from divorce cases and all. But in</p> <p>12 this case, to me it was a non-event.</p> <p>13 Q. Well, I mean, the --</p> <p>14 A. Obviously, it's not. But at the</p> <p>15 time, it didn't concern me.</p> <p>16 Q. But the record shows you provided</p> <p>17 factual information in regard to this lawsuit</p> <p>18 that Donald Edwards had against AK Steel.</p> <p>19 A. If that's what you say. If that's</p> <p>20 the way you want to word it.</p> <p>21 Q. But you did.</p> <p>22 A. I did provide this E-mail. I will</p> <p>23 acknowledge that I did. And in this E-mail, it</p>	<p style="text-align: right;">Page 76</p> <p>1 Q. He asked for it, and he was not</p> <p>2 allowed to complete it. He wanted to complete</p> <p>3 it; he asked for it.</p> <p>4 THE WITNESS: This is getting back to</p> <p>5 the EEOC.</p> <p>6 MS. DONAHUE: That's fine. I object</p> <p>7 to you asking your attorney. I'm asking you</p> <p>8 questions.</p> <p>9 THE WITNESS: I can't ask my attorney</p> <p>10 for anything?</p> <p>11 MS. DONAHUE: You cannot ask your</p> <p>12 attorney. You are answering my questions. You</p> <p>13 are here to answer my questions.</p> <p>14 THE WITNESS: All right. I'm sorry.</p> <p>15 I told you, I've never done this before. I didn't</p> <p>16 know how it works.</p> <p>17 MS. DONAHUE: That's fine. Well,</p> <p>18 this is about you. It's not about your attorney's</p> <p>19 knowledge, it's about your knowledge.</p> <p>20 THE WITNESS: In my opinion, it's a</p> <p>21 conflict with EEOC.</p> <p>22 MS. DONAHUE: Well, that's not -- as</p> <p>23 you said, you are not the attorney, and I'm</p>
<p style="text-align: right;">Page 75</p> <p>1 states what it states.</p> <p>2 Q. Which is some factual information</p> <p>3 that you provided.</p> <p>4 A. That he did not come in in August,</p> <p>5 2001. I also told him that no one did. We</p> <p>6 didn't take any applications.</p> <p>7 Q. Okay. Okay. Do you have any --</p> <p>8 in your office, do you have any other managers</p> <p>9 there or staff people there who are men?</p> <p>10 A. We have Travis Hamilton.</p> <p>11 Q. What is his position?</p> <p>12 A. He manages computer tutor, our</p> <p>13 training facility.</p> <p>14 Q. Do you have any -- when Donald</p> <p>15 Edwards came in in September, '02, and asked to</p> <p>16 do some paperwork for his job at the City of</p> <p>17 Middletown --</p> <p>18 MR. ROGERS: 2002?</p> <p>19 Q. 2006, I mean, in 2006 -- I believe</p> <p>20 you testified that he was not allowed to</p> <p>21 complete that paperwork at that time.</p> <p>22 A. I think I said he didn't complete</p> <p>23 the paperwork.</p>	<p style="text-align: right;">Page 77</p> <p>1 entitled to ask you questions that are related to</p> <p>2 this lawsuit.</p> <p>3 THE WITNESS: So you are refusing me</p> <p>4 my right to advise with my attorney?</p> <p>5 MR. ROGERS: Listen to her lecture,</p> <p>6 and then we will act appropriately. Okay?</p> <p>7 MS. DONAHUE: Okay.</p> <p>8 Q. So I'm asking you about when</p> <p>9 Donald Edwards came in in September, 2006, and</p> <p>10 was not allowed to complete his paperwork for</p> <p>11 his job at the City of Middletown, would that</p> <p>12 have been a situation in which if he had been</p> <p>13 allowed to complete that, would he then have</p> <p>14 been your employee, and you would have paid him</p> <p>15 as your employee?</p> <p>16 MR. ROGERS: Answer that.</p> <p>17 THE WITNESS: If we accepted his</p> <p>18 application -- if he had gone through the process</p> <p>19 that an employee goes through for a payrolled</p> <p>20 employee and we accepted the position from the</p> <p>21 mill -- from the City of Middletown to fill that</p> <p>22 position, and he -- and he met our requirements,</p> <p>23 then if he is a payrolled employee, he would have</p>



## FREEDOM COURT REPORTING

<p style="text-align: right;">Page 78</p> <p>1 been on our payroll and would have been an 2 employee of Palmer Temps. 3 Q. Do you receive a fee for people 4 who are on your payroll? 5 A. Payrolled employees, there's a 6 markup on their payroll that is billed to the 7 customer. 8 Q. Right. And then that's revenue 9 for your office? 10 A. Yes. 11 Q. Okay. Do you know if you had a 12 contract with the -- or an agreement with the 13 City of Middletown? I believe you did have an 14 agreement with the City of Middletown to do 15 their paperwork for their payrolled employees. 16 A. I don't remember testifying that 17 we had a contract. If I did -- 18 Q. You said you had an agreement, 19 that that was something you did for the City of 20 Middletown. 21 A. I said it's something -- I 22 probably said it's something we do for the City 23 of Middletown. I didn't say we have an</p>	<p style="text-align: right;">Page 80</p> <p>1 We are not going to just take an 2 employee that someone sends in to us that maybe 3 just committed murder or whatever or -- he 4 didn't commit murder. He would be in jail -- 5 but that has a bad work history and put them on 6 our payroll. We are responsible for all his 7 taxes, his workers' comp, his unemployment. 8 Q. Did you -- do you know if your 9 office made such a review of Mr. Edwards' 10 background? 11 MR. ROGERS: Instruct the witness not 12 to answer. 13 MS. DONAHUE: That's an improper 14 instruction. On what basis are you instructing 15 him not to answer? 16 MR. ROGERS: You can't take a 17 deposition on an EEOC charge, and that's what you 18 are trying to do. 19 MS. DONAHUE: I think you can answer 20 that question. 21 MR. ROGERS: You said you represent 22 him in his EEOC case, and that's what you are 23 trying to do.</p>
<p style="text-align: right;">Page 79</p> <p>1 agreement or a contract with the City of 2 Middletown. There are many cases for the City 3 of Middletown I will not fill their payrolled 4 position. 5 Q. Why would that be? 6 A. It could be risk. It would be -- 7 we don't accept all payrolled positions. We 8 don't like companies that have a lot of 9 payrolled positions. Payrolled positions are 10 not profitable, or very profitable. The 11 employees -- you sometimes get someone come in 12 to be sent in, and they don't meet your 13 qualifications. You can't fill it for that 14 reason. Sometimes we won't take it for the 15 risk. 16 Q. What qualifications do you have 17 for payrolled employees? 18 A. It depends on what the payrolled 19 job is. We check people's history. We check 20 their work. We run them through our process. 21 We don't do all the steps, but we do the 22 background check. We still want to make sure 23 they are a good employee.</p>	<p style="text-align: right;">Page 81</p> <p>1 MS. DONAHUE: No, we are asking -- 2 excuse me. You are not allowed -- 3 THE WITNESS: I can't ask him a 4 question? 5 MR. ROGERS: You can't lecture him 6 that way. And he is allowed to get legal advice 7 on this point. 8 MS. DONAHUE: Yes, but he is in the 9 middle of a deposition now, and we are on the 10 record, and he cannot just turn to his attorney 11 and ask questions of his attorney in the middle of 12 a deposition. 13 MR. ROGERS: Sure he can. 14 THE WITNESS: I thought you said that 15 I can take a break whenever I wanted to after a 16 question. 17 MS. DONAHUE: You can take a break. 18 Yeah, you can take a break. If you want to take a 19 break -- 20 THE WITNESS: But I can't talk to him 21 during the break? 22 MS. DONAHUE: Yeah, you can talk to 23 him during a break.</p>

## FREEDOM COURT REPORTING

<p style="text-align: right;">Page 82</p> <p>1 MS. BISSELBERG: Yes, you can.  2 MS. DONAHUE: Yeah, I agree, he can  3 talk to him during the break, and you can take a  4 break. If you want to take a break, that's fine.  5 THE WITNESS: Can I take a break and  6 sit here and ask my question? I don't care if you  7 hear my question.  8 MS. BISSELBERG: I would like to take  9 a break.  10 MR. ROGERS: Let's take a break.  11 MS. DONAHUE: That's fine.  12 (Recess taken.)  13 Q. Mr. Nunlist, are you ready?  14 A. I'm ready. No comment.  15 Q. All right. Was there a time when  16 you at Palmer Temps got rid of your files that  17 were -- had been stacking up there?  18 A. Yes.  19 Q. When was that?  20 A. I don't know when it would be. We  21 do it on -- I'd like to say on a routine basis.  22 It didn't happen last year, because I wasn't  23 there. We are out of space right now, and it</p>	<p style="text-align: right;">Page 84</p> <p>1 through the window, and we just bring up boxes  2 and shred the stuff.  3 Q. Okay. So in 2005, that was not  4 the first time that you had done that?  5 A. No.  6 Q. But you haven't done it since?  7 A. I don't believe we have -- we did  8 not do it this year, and we did not do it last  9 year, so --  10 Q. All right. Well, I was provided  11 with a lot of contracts and contract material  12 between you and AK Steel, and I want to put  13 those into the record at this point.  14 A. Okay.  15 MS. DONAHUE: Let's mark this as  16 Exhibit 9.  17 (Thereupon, Plaintiffs' Exhibit 9 was  18 marked for purposes of identification.)  19 Q. Have you seen this document that  20 we have marked as Exhibit 9?  21 A. It's referred to as a CMA,  22 customer master agreement.  23 Q. Is this a customer master</p>
<p style="text-align: right;">Page 83</p> <p>1 needs to be done desperately. But we go  2 through and we purge some of the files.  3 Q. Are these the hard copies?  4 A. Yeah, they are all -- they are  5 hard copies, yes.  6 Q. Can you recall the last time you  7 did that?  8 A. Probably a couple years ago.  9 Q. Somewhere around 2005?  10 A. Approximately, yes.  11 Q. Did you do it any time before  12 that?  13 A. Yes.  14 Q. Okay. How often do you do this?  15 A. Well, I've got to be careful. I  16 delete some files I won't say on a daily basis,  17 but we have a shredder in our office, so we can  18 shred.  19 When I do a larger file, like old  20 accounts payable records and those type of  21 things or old files for the direct hires, those  22 type of things, we hire one of those trucks  23 that come in, you can see as they shred it</p>	<p style="text-align: right;">Page 85</p> <p>1 agreement between Palmer Temps and AK Steel?  2 A. Yes.  3 Q. And when was it executed?  4 A. I believe '95. Hold on one  5 second. There's a page in here. That's not  6 dated. July 14th is at the beginning of it.  7 Q. And on page four, is that Mary  8 Jane's signature?  9 A. Yes.  10 Q. And she signed it Mary Jane  11 Palmer?  12 A. Yes.  13 Q. She was not Mary Jane Palmer  14 Nunlist?  15 A. No.  16 Q. When did she become Mary Jane  17 Nunlist?  18 A. October 15th of 2005.  19 Q. Is a -- did you call it a  20 contractor's or customer master agreement?  21 A. Customer master agreement I  22 believe it is. Maybe contractors. I see the  23 word contractors. I thought it was customer.</p>

## FREEDOM COURT REPORTING

<p style="text-align: right;">Page 86</p> <p>1 But it's a master agreement.  2 Q. Can you tell me what a master  3 agreement is?  4 A. It's required by AK. It talks  5 about our insurance and some of the  6 requirements.  7 Q. So was this done at your initial  8 association with AK Steel in providing  9 services?  10 A. We probably had one with Armco  11 prior. I don't know when AK -- when the names  12 changed. I don't know when AK became -- when  13 Armco became AK, if that's when this happened.  14 There probably was an agreement prior to that  15 that was a CMA type of agreement.  16 Q. Is this contract still in effect?  17 A. As far as I know it is, yes.  18 Q. So when you get --  19 A. I'm not sure. I guess it's a  20 contract.  21 Q. It's an agreement.  22 A. It's an agreement, so I sent it to  23 you.</p>	<p style="text-align: right;">Page 88</p> <p>1 of that kind of stuff. We meet that, so -- it  2 was never referenced. I never thought about  3 it, and they never mentioned to me that I  4 recall about this agreement when we did the  5 direct hire. We just did it.  6 MS. DONAHUE: Okay. I see. Let's  7 look at this one. Can you mark this one?  8 (Thereupon, Plaintiffs' Exhibit 10  9 was marked for purposes of identification.)  10 Q. This is Exhibit 10. Do you  11 recognize this document that we have marked as  12 Exhibit 10?  13 A. I remember pulling it out of the  14 file, yes.  15 Q. Do you remember in 1999 when it  16 was sent to Palmer Temps?  17 A. Truthfully, no, but I'm sure it  18 was sent to us. It's in the file.  19 Q. Okay. This -- what is this  20 document providing?  21 A. I believe it says there's two more  22 pages to it.  23 Q. Yeah, but from the way that it was</p>
<p style="text-align: right;">Page 87</p> <p>1 Q. Okay. So when you have done work  2 for AK Steel from July, 1995, forward, this  3 governs those agreements?  4 A. It's in effect, yes. I don't know  5 if things have changed in that time and the  6 contract didn't get changed, but yes.  7 Q. Yes, that's fine. It was provided  8 to me.  9 A. Yes, I provided it to you, but I  10 haven't read it since 1995 probably.  11 Q. But you described your direct hire  12 project with AK Steel as something that was not  13 pursuant to a contract; is that correct?  14 A. You could argue it may have been  15 under that. That would be up to their  16 interpretation. We don't have -- I don't know.  17 I don't know what AK would say. To me it's  18 different. This is for temps that we do.  19 Q. Okay.  20 A. But I don't know if it specifies.  21 It could be for anything we do for them. I  22 mean, the last page is the requirements, you  23 know, what you have to have, insurance and all</p>	<p style="text-align: right;">Page 89</p> <p>1 produced to me, I'm --  2 A. It looks like it's right there.  3 Q. This right here?  4 A. Yeah. Let me see this. My guess  5 is it is this. This says two pages, and this  6 is four.  7 Q. That's why I wasn't certain.  8 A. Sign the last page of both  9 originals. So I believe this goes with this.  10 MS. DONAHUE: All right. Give me  11 these two back, and we will mark this as Number  12 11.  13 (Thereupon, Plaintiffs' Exhibit 11  14 was marked for purposes of identification.)  15 Q. Do you recognize what we have  16 marked as Exhibit 11?  17 A. I believe Exhibit 11 goes with  18 Exhibit 10.  19 Q. And you think Exhibit 11 was  20 the --  21 A. Attachment to Exhibit 10.  22 Q. Okay. Now, this is -- is this a  23 separate agreement, or what is this in your</p>

## FREEDOM COURT REPORTING

<p style="text-align: right;">Page 90</p> <p>1 interpretation?</p> <p>2 A. This looks like a lot of the</p> <p>3 verbiage that's on purchase orders. At one</p> <p>4 point, I think they were trying to reduce the</p> <p>5 paperwork, so we signed this, and then this</p> <p>6 overrode the purchase order, so they didn't</p> <p>7 have to send us all the verbiage on all the</p> <p>8 pages of the purchase order is what I believe</p> <p>9 this was for.</p> <p>10 Q. So it is -- Exhibit 11 is titled</p> <p>11 CMA Approved?</p> <p>12 A. We are CMA approved, which is what</p> <p>13 they are referring to. This document, document</p> <p>14 Exhibit 9, is what I assume they are saying</p> <p>15 there, that we have a CMA, we are approved, and</p> <p>16 it's a service order. It's for people that are</p> <p>17 CMA approved. I assume they may sell other</p> <p>18 people that don't have a CMA agreement. I</p> <p>19 don't know their workings that way.</p> <p>20 Q. Document Number 11 just sets forth</p> <p>21 the terms and conditions of --</p> <p>22 A. Some additional --</p> <p>23 Q. -- particular purchasing</p>	<p style="text-align: right;">Page 92</p> <p>1 that Mary Jane Palmer Nunlist is your wife; is</p> <p>2 that correct?</p> <p>3 A. That's correct.</p> <p>4 Q. Is she the owner of Palmer Temps</p> <p>5 in Middletown, Ohio?</p> <p>6 A. Yes, she is, sole owner.</p> <p>7 Q. And is the address for Palmer</p> <p>8 Temps 4302 Roosevelt Boulevard in Middletown?</p> <p>9 A. Yes, it is.</p> <p>10 Q. Has that been the address for</p> <p>11 Palmer Temps during your entire 16-year</p> <p>12 employment with the company?</p> <p>13 A. Yes, it has been the same address</p> <p>14 for the entire time I have been there.</p> <p>15 Q. Is Palmer Temps in the staffing</p> <p>16 business?</p> <p>17 A. Yes.</p> <p>18 Q. Do you provide temporary personnel</p> <p>19 for companies?</p> <p>20 A. Yes.</p> <p>21 Q. Do you also assist companies with</p> <p>22 their direct hires from time to time?</p> <p>23 A. Yes.</p>
<p style="text-align: right;">Page 91</p> <p>1 agreements or any kind of purchasing agreements</p> <p>2 that you have with AK Steel?</p> <p>3 A. It's the additional conditions to</p> <p>4 sell AK Steel.</p> <p>5 Q. Okay. That's fine. I just wanted</p> <p>6 to know what I was looking at.</p> <p>7 A. That's fine.</p> <p>8 Q. Thank you. I'm not going to go</p> <p>9 through the rest of these contracts. I don't</p> <p>10 think they are really relevant to what we are</p> <p>11 doing here.</p> <p>12 A. We don't have anybody working</p> <p>13 under that contract right now.</p> <p>14 MS. DONAHUE: Yeah. Give me just a</p> <p>15 couple minutes. Just let me review this a little</p> <p>16 bit and see where we are. I may be done.</p> <p>17 MR. ROGERS: Okay.</p> <p>18 MS. DONAHUE: I think that's all the</p> <p>19 questions I have.</p> <p>20 MR. ROGERS: I have a few.</p> <p>21 DIRECT EXAMINATION</p> <p>22 BY MR. ROGERS:</p> <p>23 Q. Mr. Nunlist, you testified earlier</p>	<p style="text-align: right;">Page 93</p> <p>1 Q. Did AK Steel ask you to help it</p> <p>2 with its direct hires by accepting applications</p> <p>3 for labor jobs at your offices on Roosevelt</p> <p>4 Boulevard?</p> <p>5 A. Yes.</p> <p>6 Q. And did they ask you to do that</p> <p>7 sometime in the year 2000?</p> <p>8 A. Yes.</p> <p>9 Q. And you last performed that</p> <p>10 function, I believe you testified earlier,</p> <p>11 about the first week of January of 2001?</p> <p>12 A. Yes.</p> <p>13 Q. And have you performed that</p> <p>14 function for AK Steel since?</p> <p>15 A. No.</p> <p>16 Q. Did Donald Edwards apply for any</p> <p>17 AK Steel position with you in August of 2001 or</p> <p>18 January of 2002?</p> <p>19 A. No.</p> <p>20 Q. Was Palmer Temps accepting</p> <p>21 applications from anyone for any AK Steel mill</p> <p>22 position in August, 2000, or thereafter?</p> <p>23 A. No. Excuse me. August of 2000</p>

## FREEDOM COURT REPORTING

<p style="text-align: right;">Page 94</p> <p>1 did you say?</p> <p>2 Q. I was wondering. Let me ask that</p> <p>3 question again. Was Palmer Temps accepting</p> <p>4 applications from anyone for any AK Steel mill</p> <p>5 position in August of 2001 or at any time</p> <p>6 thereafter?</p> <p>7 A. We were not accepting any</p> <p>8 applications after August of 2001.</p> <p>9 Q. Okay. On September 10, 2006, did</p> <p>10 you send Rusty Johnson an E-mail confirming for</p> <p>11 Mr. Johnson that Palmer had not accepted</p> <p>12 applications from Donald Edwards or anyone else</p> <p>13 for any AK Steel positions in August of 2001?</p> <p>14 A. What date in September did you</p> <p>15 say?</p> <p>16 Q. September 10, 2006.</p> <p>17 A. Yes.</p> <p>18 Q. Have you ever -- has Palmer ever</p> <p>19 administered any preemployment test that AK</p> <p>20 Steel gives to applicants for hourly positions</p> <p>21 at Palmer's offices?</p> <p>22 A. No.</p> <p>23 Q. Did Palmer ever administer AK</p>	<p style="text-align: right;">Page 96</p> <p>1 computer just before you came over here this</p> <p>2 afternoon, correct?</p> <p>3 A. Yes.</p> <p>4 Q. Did they show that Donald Edwards</p> <p>5 came in to register with Palmer Temps on</p> <p>6 January 29th of 2001?</p> <p>7 A. Yes.</p> <p>8 Q. Do they also show that he</p> <p>9 completed his registration with Palmer on</p> <p>10 February 6th of 2001?</p> <p>11 A. Yes.</p> <p>12 Q. And do the records also show as</p> <p>13 part of that registration that he took some of</p> <p>14 your own tests and evaluations?</p> <p>15 A. Yes.</p> <p>16 Q. Your wife is quite ill as I</p> <p>17 understand it.</p> <p>18 A. Yes.</p> <p>19 Q. What is the nature of her illness?</p> <p>20 A. She has unknown primary cancer,</p> <p>21 squama cell.</p> <p>22 Q. And I believe you testified</p> <p>23 earlier that she is being treated at the M.D.</p>
<p style="text-align: right;">Page 95</p> <p>1 Steel's tests to Donald Edwards?</p> <p>2 A. No.</p> <p>3 Q. Individuals who seek to register</p> <p>4 for employment with Palmer Temps, are they</p> <p>5 given Palmer Temps' own tests or evaluations?</p> <p>6 A. I'm sorry. Repeat the question.</p> <p>7 Q. And individuals who seek to</p> <p>8 register for employment with Palmer Temps, do</p> <p>9 you give those people some tests or</p> <p>10 evaluations?</p> <p>11 A. Yes.</p> <p>12 Q. Are those different from the AK</p> <p>13 Steel preemployment test?</p> <p>14 A. Yes.</p> <p>15 Q. Do you use those tests or</p> <p>16 evaluations to measure skills and identify</p> <p>17 areas of strength and knowledge?</p> <p>18 A. Yes.</p> <p>19 Q. Does that assist Palmer in</p> <p>20 matching workers with the various staffing</p> <p>21 needs of your clients?</p> <p>22 A. Yes.</p> <p>23 Q. You checked your records on</p>	<p style="text-align: right;">Page 97</p> <p>1 Anderson Center in Houston?</p> <p>2 A. Yes, her primary physician is at</p> <p>3 M.D. Anderson Hospital in Houston, Texas.</p> <p>4 Q. And how frequently do you go down</p> <p>5 to M.D. Anderson for treatment?</p> <p>6 A. Approximately every three months.</p> <p>7 Q. And does she, when she is down</p> <p>8 there, receive chemo therapy treatments?</p> <p>9 A. She has received chemo. She has</p> <p>10 received chemo at other locations. She also</p> <p>11 has received radiation from them.</p> <p>12 Q. Has she received chemo here in the</p> <p>13 Cincinnati area?</p> <p>14 A. Yes.</p> <p>15 Q. Have you had any observations</p> <p>16 about the effect of the chemotherapy on your</p> <p>17 wife's memory?</p> <p>18 A. Yes.</p> <p>19 Q. And what observations have you</p> <p>20 had?</p> <p>21 A. She has had two major rounds of</p> <p>22 chemo. She is on a pill chemo currently. And</p> <p>23 after the first round, toward the end, I</p>



## FREEDOM COURT REPORTING

<p style="text-align: right;">Page 98</p> <p>1 noticed a difference in her memory. And then  2 after she was off of it for a month or two, it  3 seemed to come back. She came back pretty much  4 to her normal self.  5 And this last chemo, toward the  6 end of it, I noticed it again, but this time  7 she isn't getting better. She is actually  8 getting worse in the last month.  9 Q. When did the last chemo end? I'm  10 sorry.  11 A. Around June 1st.  12 Q. Of 2007?  13 A. Well, that was the IV chemo. She  14 is currently on pill chemo, which, according to  15 her doctor here, is as strong, in fact,  16 stronger, has more worse side effects than the  17 IV chemo. So she is currently on pill chemo  18 right now.  19 MR. ROGERS: I don't have any further  20 questions.  21 THE WITNESS: Okay.  22 MS. DONAHUE: I don't have any  23 further questions. Thank you very much.</p>	<p style="text-align: right;">Page 100</p> <p>1 I, RICHARD NUNLIST, do hereby certify that  2 the foregoing is a true and accurate transcription  3 of my testimony.  4  5  6  7  8 Dated _____  9  10  11  12  13  14  15  16  17  18  19  20  21  22  23</p>
<p style="text-align: right;">Page 99</p> <p>1 (Thereupon, the deposition was  2 concluded at 2:18 p.m.)  3  4  5  6  7  8  9  10  11  12  13  14  15  16  17  18  19  20  21  22  23</p>	<p style="text-align: right;">Page 101</p> <p>1 STATE OF OHIO )  2 COUNTY OF MONTGOMERY ) SS: CERTIFICATE  3 I, Karen M. Rudd, a Notary  4 Public within and for the State of Ohio, duly  5 commissioned and qualified,  6 DO HEREBY CERTIFY that the  7 above-named RICHARD NUNLIST, was by me first duly  8 sworn to testify the truth, the whole truth and  9 nothing but the truth.  10 Said testimony was reduced to  11 writing by me stenographically in the presence  12 of the witness and thereafter reduced to  13 typewriting.  14 I FURTHER CERTIFY that I am not a  15 relative or Attorney of either party, in any  16 manner interested in the event of this action,  17 nor am I, or the court reporting firm with which  18 I am affiliated, under a contract as defined in  19 Civil Rule 28(D).  20  21  22  23</p>



FREEDOM COURT REPORTING

Page 102

1 IN WITNESS WHEREOF, I have hereunto set  
2 my hand and seal of office at Dayton, Ohio, on  
3 this \_\_\_\_ day of \_\_\_\_\_, 2007.  
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5

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KAREN M. RUDD  
NOTARY PUBLIC, STATE OF OHIO  
My commission expires 5-21-2012

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